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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-635*

13 **LAWRENCE WAYNE SIMONOVITCH**
Address of Record:
14 4618 Royal Court
Allison Park, PA 15101

ACCUSATION

15 **Additional Address:**
16 322 Lincoln Avenue
Millvale, PA 15209-2624

17 **Registered Nurse License No. 665754**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about September 16, 2005, the Board of Registered Nursing ("Board") issued
25 Registered Nurse License Number 665754 to Lawrence Wayne Simonovitch ("Respondent").
26 The Registered Nurse License expired on February 28, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811, subdivision (b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Title 16, section 1419.3 of the California Code of Regulations defines the period in which a license may be renewed or reinstated:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

STATUTES

8. Section 2761 of the Code states, in pertinent part:

1 "The board may take disciplinary action against a certified or licensed nurse or deny an
2 application for a certificate or license for any of the following:

3 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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5 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
6 against a health care professional license or certificate by another state or territory of the United
7 States, by any other government agency, or by another California health care professional
8 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
9 action."

10 COST RECOVERY

11 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
16 included in a stipulated settlement.

17 CAUSE FOR DISCIPLINE

18 (Disciplinary Action by the Pennsylvania State Board of Nursing)

19 10. Respondent is subject to disciplinary action under Code section 2761, subdivision
20 (a)(4) on the grounds of unprofessional conduct because his registered nurse license was
21 disciplined by the Pennsylvania State Board of Nursing ("Pennsylvania Board") as follows:

22 11. On or about April 23, 2012 in a case entitled *Commonwealth of Pennsylvania, Bureau*
23 *of Professional and Occupational Affairs v. Lawrence W. Simonovitch, R.N., Respondent*, File
24 No. 11-51-05296, Docket No. 1955-51-11, the Pennsylvania Board issued a Final Order which
25 indefinitely suspended Respondent's registered nursing license retroactive to January 25, 2012.
26 The facts and circumstances underlying the Final Order were as follows:

27 (a) Starting on or about October 2010, Respondent began to use marijuana.

1 (b) On or about February 17, 2011, Respondent failed to properly document the
2 administration of medications to patients.

3 (c) Respondent's employer, the University of Pittsburg Medical Center, requested
4 Respondent submit to a Fitness of Duty Test. Respondent refused to take the test because the
5 results would have been positive for marijuana, which he had smoked the night before. On or
6 about February 18, 2011, Respondent was terminated from his employment at the University of
7 Pittsburg Medical Center for refusing to submit to the Fitness of Duty Test.

8 (d) Respondent was provisionally enrolled in the Bureau of Professional and
9 Occupational Affairs' Professional Health Monitoring Program's Voluntary Recovery Program
10 but on June 15, 2011, Respondent advised the Program that he was unable to continue due to
11 financial reasons.

12 (e) On or about September 19, 2011, the Pennsylvania Board issued an Order
13 compelling Respondent to submit to a mental and physical examination by Dr. Wettstein on
14 October 11, 2011 at 1:00 p.m.

15 (f) On or about October 11, 2011, Respondent telephoned Dr. Wettstein and
16 advised that he would not submit to the examination. Respondent in fact did not submit to the
17 examination.

18 (g) On January 5, 2012, the Pennsylvania Board issued a Memorandum Order that
19 notified Respondent that his license would be indefinitely suspended effective January 25, 2012 if
20 he did not file an Answer or request for hearing to challenge the validity of order compelling the
21 mental examination. Respondent did not file an Answer, request for a hearing, or respond to the
22 Memorandum Order.

23 PRAYER

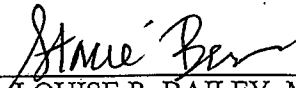
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 665754, issued to
27 Lawrence Wayne Simonovitch;
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1 2. Ordering Lawrence Wayne Simonovitch to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.
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6 DATED: FEBRUARY 20, 2013

7 *for* 
8 LOUISE R. BAILEY, M.Ed., RN
9 Executive Officer
10 Board of Registered Nursing
11 Department of Consumer Affairs
12 State of California
13 Complainant

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